

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

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4 JOSEPH T. TOY,

5 Plaintiff,

6 v.

7 SOUTH POINT HOTEL AND CASINO, *et*  
8 *al.*,

9 Defendants.  
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Case No. 2:14-CV-01723-APG-VCF

**ORDER**

(Dkt. #4)

11 Pro se plaintiff Joseph Toy alleges that on October 14, 2012, employees of Defendant  
12 South Point Hotel and Casino summoned the police and an ambulance to “forcibly remove” Toy  
13 and his mother from the South Point premises. (Dkt. #3 at 3.) He brings claims on his own behalf  
14 and on behalf of his mother under 42 U.S.C. § 1983 for alleged violations of their constitutional  
15 rights. (*Id.* at 2.)

16 On October 21, 2014, Magistrate Judge Ferenbach entered a Report & Recommendation  
17 (Dkt. #2) recommending I dismiss this case as barred by the statute of limitations. Judge  
18 Ferenbach also recommended that even if the complaint should not be dismissed in its entirety,  
19 Toy cannot assert his mother’s rights. Judge Ferenbach also recommended dismissal of  
20 Defendant State of Nevada because a state cannot be sued under § 1983.

21 No objection was filed. I nevertheless conducted a de novo review of the issues set forth  
22 in the Report & Recommendation. (Dkt. #4.) I dismissed Toy’s claims filed on his mother’s  
23 behalf because Toy cannot assert claims based on alleged injuries to his mother. I dismissed  
24 Toy’s claims against the State of Nevada because a state is not a “person” amenable to suit under  
25 § 1983. I also gave Toy until February 23, 2015 to show cause why his claims should not be  
26 dismissed as barred by the statute of limitations. I warned him that failure to respond would  
27 result in dismissal of his claims without further notice.  
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1 Toy did not respond and he therefore has not shown cause why his remaining claims  
2 should not be dismissed as barred by the statute of limitations. I therefore dismiss his remaining  
3 claims with prejudice. The clerk of court is directed to close this action.

4 IT IS SO ORDERED.

5 DATED this 13<sup>th</sup> day of April, 2015.

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8 ANDREW P. GORDON  
9 UNITED STATES DISTRICT JUDGE  
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